

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DEASHON T.,

Plaintiff,

vs.

**8:23-CV-1541
(MAD/MJK)**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

DEASHON T.

Latham, New York

Pro se Plaintiff

SOCIAL SECURITY ADMINISTRATION

KRISTINA D. COHN, ESQ.

Office of General Counsel

6401 Security Boulevard

Baltimore, Maryland 21235

Attorney for Defendant

Mae A. D'Agostino, U.S. District Judge:

ORDER

Pro se Plaintiff, Deashon T., commenced this action pursuant to 42 U.S.C. § 405(g) seeking review of the decision of the Commissioner of Social Security (the "Commissioner") denying his applications for Supplemental Security Income and Child's Insurance Benefits. *See* Dkt. No. 1. Plaintiff filed three letters seeking to add documents to the administrative record. *See* Dkt. Nos. 20, 24, 29. The Commissioner responded to Plaintiff's letters, arguing that the record was fully developed. *See* Dkt. Nos. 22, 27. In a Report-Recommendation dated May 31, 2024, Magistrate Judge Mitchell J. Katz interpreted Plaintiff's filings as a request to remand the

Commissioner's decision pursuant to sentence six of 42 U.S.C. § 405(g) for consideration of new and material evidence that was not part of the original administrative record. *See* Dkt. No. 31. Magistrate Judge Katz recommended denying Plaintiff's request for remand. Plaintiff filed sixty-page objections to the Report-Recommendation. *See* Dkt. No. 33. On September 3, 2024, the Court adopted Magistrate Judge Katz's Report-Recommendation and permitted the parties time to file a brief challenging the substantive merits of the ALJ's decision. *See* Dkt. No. 35.

Plaintiff filed five letters asking for an extension of time to file his brief and to submit additional documents. *See* Dkt. Nos. 36, 38, 42, 44, 46. Plaintiff also filed an appeal to the Second Circuit. *See* Dkt. No. 41.¹ Magistrate Judge Katz granted Plaintiff's first two extension requests and denied his motion to submit additional document to the administrative record. *See* Dkt. Nos. 37, 43, 47. Plaintiff filed a 188-page brief on November 22, 2024. *See* Dkt. No. 48. He attached hundreds of pages of records to his brief. *See id.* Plaintiff lists five primary issues: (1) Magistrate Judge Katz erred in denying his request to appoint counsel; (2) the ALJ erred in failing to consider additional evidence from Plaintiff's childhood; (3) the administrative record is incomplete; (4) the ALJ failed to fully develop the record; and (5) the ALJ erred in her analysis of Plaintiff's claims. *See id.* at 1-6; *see also* Dkt. No. 48-1 at 1-3 (summarizing the twenty-four specific issues Plaintiff has with the Court and the ALJ's decisions). In a sentence labeled "Relief," Plaintiff states that he "do[es] not want [his] adult case penalized or reviewed or come under question if [his] childhood case is remanded; [he] would like to keep [his] adult forward-going SSI." Dkt. No. 48 at 188.

¹ The Court concluded that Plaintiff's appeal did not divest this Court of jurisdiction because the Court's September 3, 2024, Order was not a final and appealable decision. *See* Dkt. No. 40.

On December 19, 2024, the Commissioner filed a motion to remand the case to the Social Security Administration for further administrative proceedings. *See* Dkt. No. 51. The Commissioner contends that the ALJ erred in consideration of a medical opinion from consultative examiner Dennis Noia, Ph.D. *See id.* at 3. The Commissioner also agrees that "[t]he ALJ [] did not fully develop the record." *Id.* Plaintiff filed a letter in response on February 8, 2025, stating that the Social Security Administration contacted him on February 3, 2025, about a hearing that was to be held two days later, on February 5, 2025. *See* Dkt. No. 52 at 1. Plaintiff argues that he did not receive proper notice of the hearing. *See id.* He also asks that the Court "use [its] discretion to decide whether [he] can simply be awarded [his] childhood benefits" *Id.* at 2. Plaintiff requests in the alternative, that if the Court remands his case, it enters an "order explicitly stating that [his] current adult Social Security benefits cannot be reviewed or taken away from [him]." *Id.*

"Where there are gaps in the administrative record or the ALJ has applied an improper legal standard, we have, on numerous occasions, remanded to the [Commissioner] for further development of the evidence." *Searcy v. Astrue*, No. 6:10-CV-1294, 2012 WL 3597433, *2 (N.D.N.Y. Aug. 20, 2012) (quoting *Pratts v. Chater*, 94 F.3d 34, 39 (2d Cir. 1996)) (additional quotation and quotation marks omitted). "In contrast, where there is 'no apparent basis to conclude that a more complete record might support the Commissioner's decision,' the Court may 'simply remand for a calculation of benefits.'" *Id.* (quoting *Rosa v. Callahan*, 168 F.3d 72, 83 (2d Cir. 1999)).

Based on a review of both parties' filings, it appears that a more complete record might impact the Commissioner's decision such that remand for further proceedings and development of the record is appropriate. A remand for the calculation of benefits is not currently warranted

because remand for evidentiary proceedings serves a purpose. *See Demars v. Comm'r of Soc. Sec.*, 841 Fed. Appx. 258, 263 (2d Cir. 2021). Remand for further proceedings would allow the ALJ to obtain additional mental health treatment records discussed by both parties. *See* Dkt. No. 51-1 at 8; Dkt. No. 48 at 184-85. Remand would also provide the ALJ with the opportunity to appropriately articulate consideration of the medical opinions in the record as required by 20 C.F.R. § 404.1520c. *See* Dkt. No. 51-1 at 7; Dkt. No. 48 at 58.

As the Commissioner states, there is evidence in the record which contradicts a finding of disability because the records demonstrate that Plaintiff was cooperative and stable, and had fair judgment and insight, and adequate impulse control. *See* Dkt. No. 51-1 at 9; *see also* Dkt. No. 16 at 483-84. 491-92. The administrative record, as it presently exists, does not present the "extraordinary" circumstances under which a remand solely for the calculation of benefits is warranted. *Brian D. v. Comm'r of Soc. Sec.*, No. 3:21-CV-1368. 2023 WL 1765429, *10 (N.D.N.Y. Feb. 3, 2023) (quoting *Lori H. v. Kijakazi*, No. 3:20-CV-1303, 2022 WL 675702, *3 (N.D.N.Y. Mar. 7, 2022)).

As to Plaintiff's statement that he does not want this case to penalize his separate case for adult benefits, the claims could potentially be adjudicated, together. *See* DI 25201.010 *If You Attain Age 18 After You File Your Disability Application But Before We Make A Determination or Decision*, Program Operations Manual System, Social Security Administration, <https://secure.ssa.gov/poms.nsf/lnx/0425201010> (eff. July, 31, 2023). The Court is not aware of the status of Plaintiff's adult benefits case. However, the claims require application of different

standards. *See id.* There is also no basis to believe that Plaintiff's adult case will be negatively impacted by this Court's remand on his application for Child's Insurance Benefits.²

Accordingly, after carefully reviewing the entire record in this matter, the parties' submissions, and the applicable law, the Court hereby

ORDERS that the Commissioner's motion for remand for further proceedings (Dkt. No. 51) is **GRANTED**; and the Court further

ORDERS that the Commissioner's decision is **REVERSED AND REMANDED** for further proceedings consistent with this Order;³ and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: February 11, 2025
Albany, New York


Mae A. D'Agostino
U.S. District Judge

² Because the Court is remanding this case, it need not analyze Plaintiff's argument that the Court erroneously denied him counsel.

³ This decision is not at odds with the previous ruling of the Court denying Plaintiff's request for remand pursuant to sentence six of 42 U.S.C. § 405(g), because the Commissioner has moved for remand pursuant to sentence four 42 U.S.C. § 405(g). *See* Dkt. No. 51-1 at 4.